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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,206	12/31/2001	Thierry Patureaux	Q65504	7563
7590	03/24/2004		EXAMINER	JOHNSON, JONATHAN J
Sughrue Mion Zinn Macpeak& Seas Suite 800 2100 Pennsylvania Avenue NW Washington, DC 20037-3213			ART UNIT	PAPER NUMBER
			1725	
			DATE MAILED: 03/24/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/890,206	PATUREAUX, THIERRY
Examiner	Art Unit	
Jonathan Johnson	1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 December 2001.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) 1-3,5 and 10-13 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 4 and 6-9 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-3, drawn to the method of filling a tube.

Group II, claim(s) 4-13 are drawn to an apparatus for filling a vertical tube.

The special technical feature of Group I is the obstacles, as recited in Claim 1. The forgoing special technical feature is shown in the prior art of Hundtofte (3,608,751) in Figure 1, item 2. Therefore, there is no contribution made over the prior art, hence there is no unity of invention and lack of unity is held by the Examiner.

IF APPLICANT ELECTS GROUP II, APPLICANT MUST ADDITIONALLY ELECT THE FOLLOWING:

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Group IIa, claim 5 drawn to the cable.

Group IIb, claims 6-~~9~~ drawn to the symmetry of the obstacles.

Group IIc, claims 10-12 drawn to the material of the obstacles.

Group IId, claim 13 drawn to the means for moving the cable.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a). Claim 4 is generic.

During a telephone conversation with Raul Tamayo on 3-10-04 a provisional election was made without traverse to prosecute the invention of Group IIb, claims 4 and 6-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-3,5 and 10-13 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hundtofte (3,608,751) in view of Ryntveit (EP 548999). Hundtofte teaches a device for facilitate the filling of a vertical tube having at least 3 obstacles (Figure 1, item 4); that are at least in part offset laterally in relation to the axis of the tube (Figure 1, item 4); where two of the obstacles are arranged in the tube at different levels (figure 1, item 4) and are symmetric in relation to the axis of the tube (Figure 1, item 4); and have rotational symmetry and that symmetry is offset in relation to cable (compare symmetry of Figure 1, top two items listed as item 2) where the obstacles have cylindrical shape (Figure 1, item 2). Ryntveit teach the dimension of the obstacles, perpendicularly to the axis ranges between 0.25 and 0.75 times the diameter of the tube where the obstacles take up at least 80% of the lateral section of the tube (figure 2, item 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the obstacles of Hundtofte to increase its size in order to ensure that the catalysts are not crushed when filling the tubes (see Ryntveit col. 2, ll. 5-57).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Johnson whose telephone number is 571-272-1177. The examiner can normally be reached on M-Th 7AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jonathan Johnson
Examiner
Art Unit 1725

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